

OFFICE OF STATE PUBLIC DEFENDER



BRIAN SCHWEITZER
GOVERNOR

RANDI HOOD
CHIEF PUBLIC DEFENDER

STATE OF MONTANA

Phone: (406) 496-6080
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44 WEST PARK STREET
BUTTE, MONTANA 59701

July 24, 2006

EXHIBIT 3

Legislative Finance Committee (LFC)
C/O: Pat Gervais (Legislative Fiscal Division)
P.O. Box 201711
Helena, MT 59620-1711

Dear Committee Members:

This letter responds to Representative Hawk's question regarding the items that comprise the \$190,208 as noted in the letter regarding "LFC Review and Comment on a Fiscal Year Transfer Supplemental Appropriation for Public Defender Costs" from David Ewer, Budget Director to Clayton Schenck, Legislative Fiscal Analysis dated July 19, 2006.

The items that comprise this amount are as follows:

1. (2) Nextira One key phone system for Bozeman and Missoula	\$42,401.40
2. (3) Dell communication servers for Bozeman, Billings, and Missoula	10,249.92
3. (12) American Power uninterruptible power supplies for various locations	3,852.70
4. (80) Dell computers for use at various locations	<u>133,703.50</u>
	\$190,207.52

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry Freebourn".

Harry Freebourn
Administrative Director

CC: Montana Public Defender Commission
Randi Hood, Chief Public Defender
David Ewer, Budget Director – Office of Budget and Program Planning
Clayton Schenck, Montana Legislative Fiscal Analyst
Scott Seacat, Montana Legislative Auditor

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR




PO Box 200802
HELENA, MONTANA 59620-0802

RECEIVED

JUL 21 2006

**OFFICE OF THE STATE
PUBLIC DEFENDER**

TO: Clayton Schenck, Legislative Fiscal Analyst
Legislative Fiscal Division

FROM:  David Ewer, Budget Director
Office of Budget and Program Planning


DATE: July 19, 2006

SUBJECT: LFC Review and Comment on a Fiscal Year Transfer Supplemental
Appropriation for Public Defender costs

In accordance with Title 17, Chapter 7, part 3, MCA, the Governor's Office of Budget and Program Planning is submitting for review and comment a proposed supplemental appropriation to transfer FY 2007 authority to FY 2006.

The Office of Public Defender has recently received invoices to pay IT hardware and phone system expenses that were anticipated to be paid from FY 2007 appropriations. However, as advised by the Legislative Audit Division, these expenditures must be paid in FY 2006. This transfer will not cause a shortfall in FY 2007 since the costs are one-time and were budgeted in FY 2007. Therefore, the statutorily required expenditure reduction plan is to not make these expenditures in FY 2007 since they will be in FY 2006. The total cost overruns in FY 2006 are \$190,208.

Since the agency is facing the fiscal year end deadline, any comment that the Legislative Finance Committee or the Legislative Fiscal Division has are needed by Friday July 21. I apologize for the short notice of this issue. Please let us know if you wish additional information on this transaction.

CC: Randi Hood,  Harry Freebourn

Freebourn, Harry

From: Schenck, Clayton
Sent: Thursday, July 20, 2006 7:40 PM
To: Rick Ripley (ripleys@3rivers.net); Cooney, Mike; CAROL WILLIAMS (E-mail); DON RYAN (E-mail); GARY BRANAE (E-mail); JOHN COBB (E-mail); JOHN SINRUD (E-mail); KEITH BALES (E-mail); MIKE COONEY (E-mail); RAY HAWK (E-mail); RICK LAIBLE (E-mail); ROSALIE BUZZAS (E-mail); TIM CALLAHAN (E-mail)
Cc: LEG LFD; Ewer, David; Freebourn, Harry; Hood, Randi; Sassano, Amy; Fox, Susan
Subject: Request for LFC review and comment on Transfer Appropriation

Members of the Legislative Finance Committee:

The purpose of this email is to notify an submit to you a short-fuse submission to the LFC of a request for comment on an appropriation transfer request and the potential for a conference call meeting of the LFC on Friday, July 21 (tomorrow) at 1:00 p.m. As noted below, please reply to this email noting receipt and advising if you would be available for a conference call.

I received a letter late yesterday from the Office of Budget and Program Planning requesting LFC review and comment on a Fiscal Year Transfer Supplemental Appropriation for the Office of Public Defender. The total transfer amount requested from fiscal year 2007 to fiscal year 2006 is \$190,208.

As you will recall, Title 17, Chapter 7, part 3, MCA requires the Office of Budget and Program Planning to submit requests for appropriation transfers from the second year of the biennium to the first year of the biennium to the Legislative Finance Committee for review and comment. The Governor cannot approve the transfer until the Governor receives the LFC's written report for the proposed transfer appropriation, unless: 1) the LFC report is not received within 90 days from the date the request was forwarded to the LFC; or 2) there has been a waiver of the review and report requirement by the Legislative Fiscal Analyst due to an emergency that poses a serious threat to the life, health, or safety of the public.

The deadline for fiscal year end transactions is Friday, July 21. The request does not meet the exception for an emergency, and unless the LFC can respond by close of business tomorrow (Friday), the Governor would be in violation of statute to approve the request.

Staff is reviewing the request and ensuring it meets the statutory criteria for a valid appropriation transfer, and are reviewing options for accomplishing this action other than an emergency meeting of the LFC. However, if a meeting becomes necessary and meets statutory requirements for a public meeting, Chairman Cobb has authorized me to attempt to set up a conference call meeting of the LFC on Friday, July 21. I will be looking at a meeting time of 1:00 for the meeting if it is necessary. We still need to determine that a meeting would meet public notice requirements and that there are no other practical and legal alternatives.

The letter from the Director David Ewer, Office of Budget and Program Planning, reads as follows, dated July 19, 2006.

"Subject: LFC Review and Comment on a Fiscal Year Transfer Supplemental Appropriation for Public Defender costs

In accordance with Title 17, Chapter 7, part 3, MCA, the Governor's Office of Budget and Program Planning is submitting for review and comment a proposed supplemental appropriation to transfer FY 2007 authority to FY 2006.

The Office of Public Defender has recently received invoices to pay IT hardware and phone system expenses that were anticipated to be paid form FY 2007 appropriations. However, as advised by the Legislative Audit Division, these expenditures must be paid in FY 2006. This transfer will not cause a shortfall in FY 2007 since the costs are one-time and were budgeted in FY 2007. Therefore, the statutorily required expenditure reduction plan is to no make the expenditures in FY 2007 since they will be in FY 2006. The total cost overruns in FY 2006 are \$190,208.

Since the agency is facing the fiscal year end deadline, any comment that the Legislative Finance Committee or the Legislative Fiscal Division has are needed by Friday July 21. I apologize for the short notice of this issue. Please let us know if you wish additional information on this transaction."

This office will advise the LFC of our review of the request and what action was taken within the next 24 hours, including the necessity for an LFC conference call meeting if necessary.

Please respond that you received this email and advise if you are available at 1:00 p.m. Friday for a possible conference call meeting, and advise of times you would be available up to 3:00 p.m. Friday if not available at 1:00 p.m. Please advise also the phone number to reach you for the conference call.

The late nature of this request is regretted and every effort will be made to find an acceptable alternative.

Clayton Schenck



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

Room 110 Capitol Building * P.O. Box 201711 * Helena, MT 59620-1711 * (406) 444-2986 * FAX (406) 444-3036

Legislative Fiscal Analyst
CLAYTON SCHENCK

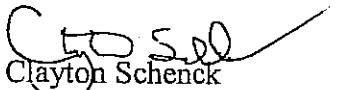
July 21, 2006

Governor Brian Schweitzer
P.O. Box 200801
Helena, MT 59620-0801

Dear Governor Schweitzer:

In accordance with 17-7-311, the Legislative Finance Committee (LFC) has reviewed the proposed supplemental appropriation for the Office of Public Defender in the Department of Administration and voted to report that the committee finds no statutory issues with this proposed supplemental.

Sincerely,


Clayton Schenck
Legislative Fiscal Analyst

RECEIVED
JUL 25 2006
OFFICE OF THE STATE
PUBLIC DEFENDER

cc: David Ewer
Amy Sassano
Randi Hood
✓ Harry Freebourn